

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY PERRI,

Plaintiff,

-against-

**DECLARATION OF
JOHANA CASTRO**

06 CV 403 (CBA)(LB)

MICHAEL BLOOMBERG, Mayor of the City of New
York; RAYMOND KELLY, Commissioner of the New
York City Police Department; Captain John Doe;
SERGEANT BARRITEAU, P.O. SUSAN SAVIANO;
P.O. JOSEPH DITUCCI, IN THEIR INDIVIDUAL, AS
WELL AS, OFFICIAL CAPACITIES; AND THE CITY
OF NEW YORK,

Defendants.

----- X

JOHANA CASTRO, declares under penalty of perjury and pursuant to 28 U.S.C.

§ 1746 that the following statements are true and correct.

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants¹ City of New York, Sergeant Barriteau, Police Officer Saviano, and retired Police Officer Ditucci. As such, I am familiar with the facts stated below and, as well, submit this declaration to place relevant documents on the record in support of defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

¹ By Order dated September 28, 2007, the Court dismissed the claims against defendants Mayor Michael Bloomberg and Police Commissioner Raymond Kelly.

2. In support of their motion, defendants submit the exhibits described below:²

- A. Annexed hereto as Exhibit "A" is a copy of plaintiff's Complaint in this action.
- B. Annexed hereto as Exhibit "B" is a copy of plaintiff's First Amended Complaint in this action.
- C. Annexed hereto as Exhibit "C" is a copy of plaintiff's Second Amended Complaint in this action.
- D. Annexed hereto as Exhibit "D" is a copy of plaintiff's Third Amended Complaint in this action.
- E. Annexed hereto as Exhibit "E" is a copy of the Court Docket Sheet in this action.
- F. Annexed hereto as Exhibit "F" is a copy of Magistrate Judge Bloom's Order dated September 19, 2006.
- G. Annexed hereto as Exhibit "G" is a copy of District Court Judge Amon's Order dated November 2, 2006.
- H. Annexed hereto as Exhibit "H" is a copy of Magistrate Judge Bloom's Order dated November 9, 2006.
- I. Annexed hereto as Exhibit "I" is a copy of Magistrate Judge Bloom's Report and Recommendation regarding Defendants' Motion to Dismiss.

² Courts routinely acknowledge the business record exception for police records. Griffin v. City of New York, 287 F. Supp. 2d 392, 397 (S.D.N.Y. 2003). However, if the Court requires, defendants will set forth the foundation by affidavit.

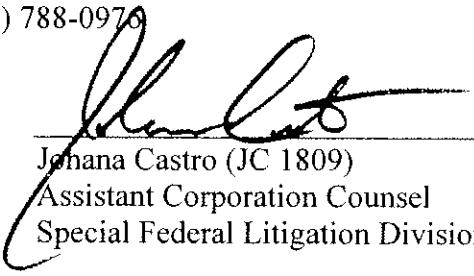
- J. Annexed hereto as Exhibit “J” is a copy of District Court Judge Amon’s Order dated September 28, 2007.
- K. Annexed hereto as Exhibit “K” is a copy of Magistrate Judge Bloom’s Order dated January 15, 2008.
- L. Annexed hereto as Exhibit “L” is a copy of Magistrate Judge Bloom’s Order dated April 15, 2008.
- M. Annexed hereto as Exhibit “M” is a copy of excerpts from plaintiff’s Court Ordered deposition, which was taken on May 22, 2008.
- N. Annexed hereto as Exhibit “N” is a copy of plaintiff’s arrest report for the underlying criminal case.
- O. Annexed hereto as Exhibit “O” is a copy of the Criminal Court Complaint for the underlying criminal case.
- P. Annexed hereto as Exhibit “P” is a copy of an excerpt from the Command Log of the 109th Precinct.
- Q. Annexed hereto as Exhibit “Q” is a copy of plaintiff’s medical records from Flushing Hospital.
- R. Annexed hereto as Exhibit “R” is a copy of the FDNY Sprint Report dated October 11, 2003.
- S. Annexed hereto as Exhibit “S” is a copy of the Ambulance Call Report.
- T. Annexed hereto as Exhibit “T” is a copy of the FDNY Sprint Report dated October 12, 2003.

U. Annexed hereto as Exhibit "U" is a copy of the Certificate of Disposition for plaintiff's underlying criminal case.

Dated: New York, New York
August 18, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York,
Sergeant Barriteau, Police Officer Saviano, and
retired Police Officer Ditucci
100 Church Street, Room 3-189
New York, New York 10007
(212) 788-0976

By:



Johana Castro (JC 1809)
Assistant Corporation Counsel
Special Federal Litigation Division

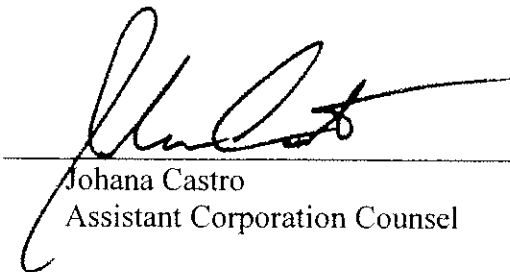
To: BY MAIL
Anthony Perri
Plaintiff Pro Se
119-58 27th Avenue, Apt. 1H
Flushing, NY 11354

DECLARATION OF SERVICE BY FIRST-CLASS MAIL

I, Johana Castro, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury, that on August 18, 2008, I served the annexed NOTICE OF MOTION, STATEMENT PURSUANT TO LOCAL RULE 56.1, STATEMENT PURSUANT TO LOCAL RULE 56.2 AND DECLARATION OF JOHANA CASTRO, WITH EXHIBITS, IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT PURSUANT TO FED. R. CIV. P. 56 by depositing a copy of the same, enclosed in a first-class postpaid properly addressed wrapper, in a post office official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, upon the following:

Anthony Perri
Plaintiff Pro Se
119-58 27th Avenue, Apt. 1H
Flushing, NY 11354

Dated: New York, New York
August 18, 2008



Johana Castro
Assistant Corporation Counsel

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SUSAN SAVIANO; P.O. JOSEPH DITUCCI, IN
THEIR INDIVIDUAL, AS WELL AS, OFFICIAL
CAPACITIES; AND THE CITY OF NEW YORK,

Defendants.

**NOTICE OF MOTION, STATEMENT PURSUANT
TO LOCAL RULE 56.1, STATEMENT PURSUANT
TO LOCAL RULE 56.2, AND DECLARATION OF
JOHANA CASTRO IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT PURSUANT TO FED. R. CIV. P. 56**

MICHAEL A. CARDOZO

*Corporation Counsel of the City of New York
Attorney for Defendants City of New York, Sergeant
Barriteau, Police Officer Saviano, and retired
Police Officer Ditucci
100 Church Street
New York, N.Y. 10007*

*Of Counsel: Johana Castro
Tel: (212) 788-0976
NYCLIS No. 06 SF 004583*

Due and timely service is hereby admitted.

New York, N.Y., 200.....

..... Esq.

Attorney for